

1 **INTERNAL REPORTS CHECKED:** Disclosure Reports
2 RAD Referral Materials

3 **FEDERAL AGENCIES CHECKED:** None

4 **I. INTRODUCTION**

5 In Pre-MUR 601, Let America Work and Benjamin Ottenhoff in his official capacity as
6 treasurer ("Committee") submitted a *sua sponte* submission ("Submission") stating that the
7 Committee failed to timely disclose a \$324,821 independent expenditure.¹ The Commission's
8 Reports Analysis Division ("RAD") later referred the Committee for the same activity.² For the
9 reasons set out below, we recommend that the Commission: (1) open a MUR and merge Pre-
10 MUR 601 and RR 17L-15 into the new Matter; (2) find reason to believe that the Committee
11 untimely filed a 24-hour independent expenditure report in violation of 52 U.S.C. § 30104(g)(1);
12 and (3) authorize pre-probable conciliation with the Committee and approve the attached
13 conciliation agreement.

14 **II. FACTUAL BACKGROUND**

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16 The Committee is an independent-expenditure-only political committee that registered
17 with the Commission on August 4, 2015.³ On December 2, 2016, the Committee filed its
18 Submission noting that it made one independent expenditure in the amount of \$324,821 to Stick
19 & Rudder Strategies, Inc. for media services in support of Russell Feingold.⁴ Although this
20 independent expenditure was disseminated on October 31, 2016, the Committee concedes that it

¹ See Submission (Dec. 2, 2016). See also Policy Regarding Self-Reporting of Campaign Finance Violations (*Sua Sponte* Submissions), 72 Fed. Reg. 16,695 (Apr. 5, 2007) ("*Sua Sponte* Policy").

² See Memorandum from Patricia C. Orrock, Chief Compliance Officer, FEC, to Lisa Stevenson, Acting General Counsel, FEC (June 7, 2017) ("*Referral*").

³ See Statement of Organization, filed August 4, 2015, available at http://docquery.fec.gov/pdf/789/20150804900077678_9/201508049000776789.pdf.

⁴ Submission and Attachment.

1 failed to disclose it on a 24-Hour Report.⁵ The Committee further states that it discovered the
2 omission on November 29, 2016, while it was preparing to file its 2016 Post-General Report.⁶
3 On November 30, 2016, the Committee filed a 24-Hour Report including this independent
4 expenditure.⁷ The Committee also disclosed the independent expenditure on its 30-Day Post-
5 General Report filed on December 8, 2016.⁸

6 On March 16, 2017, RAD sent a Request for Additional Information ("RFAI") to the
7 Committee referencing the same independent expenditure, noting that the Committee may have
8 failed to timely file a 24-Hour Report.⁹ On June 7, 2017, RAD referred the Committee to the
9 Office of General Counsel for failing to timely file the independent expenditure report.¹⁰

10 III. LEGAL ANALYSIS

11 The Federal Election Campaign Act of 1971, as amended, requires committee treasurers
12 to file reports of disbursements in accordance with the provisions of 52 U.S.C. § 30104(b).¹¹
13 This requirement includes reporting independent expenditures made by political committees
14 other than authorized committees.¹² Every political committee that makes independent
15 expenditures must report them on its regularly scheduled disclosure reports in accordance with

⁵ *Id.*

⁶ *Id.*

⁷ See Committee 24/48 Report of Independent Expenditures (Nov. 30, 2016), available at <http://docquery.fec.gov/pdf/212/201611309037588212/201611309037588212.pdf>.

⁸ See Committee 2016 30 Day Post-General Report (Dec. 8, 2016) at 17, available at <http://docquery.fec.gov/pdf/992/201612089040050992/201612089040050992.pdf>.

⁹ See RR 17L-15 and Attachments.

¹⁰ *Id.* The Committee did not respond to the Referral.

¹¹ 52 U.S.C. § 30104(a)(1).

¹² 52 U.S.C. § 30104(b)(4)(H)(iii); see also 11 C.F.R. § 104.3(b)(1)(vii).

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1 11 C.F.R. § 104.3(b)(3)(vii).¹³ In addition, political committees that make independent
2 expenditures aggregating \$1,000 or more with respect to a given election after the 20th day, but
3 more than 24 hours before the date of that election, must disclose them within 24 hours
4 following the date of dissemination.¹⁴ These reports, known as 24-Hour Reports, must be filed
5 within 24 hours after each time the committee makes or contracts to make independent
6 expenditures aggregating an additional \$1,000.¹⁵

7 In its Submission, the Committee admits that it failed to timely file an independent
8 expenditure 24-Hour Report concerning \$324,821 for media services in October 2016. RAD
9 referred the Committee for the same untimely reporting. Accordingly, we recommend that the
10 Commission find reason to believe that Let America Work and Benjamin Ottenhoff in his
11 official capacity as treasurer violated 52 U.S.C. § 30104(g)(1).

¹³ 11 C.F.R. § 104.4(a).

¹⁴ 52 U.S.C. § 30104(g)(1)(A); 11 C.F.R. § 104.4(c).

¹⁵ 52 U.S.C. § 30104(g)(1)(B); 11 C.F.R. § 104.4(c).

1 6. Approve the appropriate letter.

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11 Dated: 12.21.17

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28 Attachments:

29 1. Factual and Legal Analysis

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1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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7 RESPONDENTS: Let America Work and **MUR**
8 Benjamin Ottenhoff in his
9 official capacity as treasurer

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11 **I. INTRODUCTION**

12 This matter was generated by a *sua sponte* submission (“Submission”) filed with
13 the Commission by Let America Work and Benjamin Ottenhoff in his official capacity as
14 treasurer and pursuant to information ascertained by the Federal Election Commission
15 (the “Commission”) in the normal course of carrying out its supervisory responsibilities.¹

16 The Submission acknowledges that the Committee failed to timely disclose a
17 \$324,821 independent expenditure.² The Commission’s Reports Analysis Division
18 (“RAD”) later referred the Committee to the Office of General Counsel (“OGC”) for the
19 same activity. For the reasons set out below, the Commission has determined to find
20 reason to believe that the Committee violated 52 U.S.C. § 30104(g)(1).

21 **II. FACTUAL SUMMARY**

22 The Committee is an independent-expenditure-only political committee that
23 registered with the Commission on August 4, 2015.³ On December 2, 2016, the
24 Committee filed its Submission noting that it made one independent expenditure in the
25 amount of \$324,821 to Stick & Rudder Strategies, Inc. for media services in support of

¹ See 52 U.S.C. § 30109(a)(2).

² See Submission (Dec. 2, 2016). See also Policy Regarding Self-Reporting of Campaign Finance Violations (*Sua Sponte* Submissions), 72 Fed. Reg. 16,695 (Apr. 5, 2007) (“*Sua Sponte* Policy”).

³ See Statement of Organization, filed August 4, 2015, available at <http://docquery.fec.gov/pdf/789/201508049000776789/201508049000776789.pdf>.

1 Russell Feingold.⁴ Although the Committee disseminated this independent expenditure
2 on October 31, 2016, it concedes that it failed to disclose the expenditure on a 24-Hour
3 Report.⁵ The Committee further states that it discovered the omission on November 29,
4 2016, while it was preparing to file its 2016 Post-General Report.⁶ On November 30,
5 2016, the Committee filed a 24-Hour Report including this independent expenditure.⁷
6 The Committee also disclosed the independent expenditure on its 30-Day Post-General
7 Report filed on December 8, 2016.⁸

8 On March 16, 2017, RAD sent a Request for Additional Information (“RAI”) to
9 the Committee referencing the same independent expenditure, noting that the Committee
10 may have failed to timely file a 24-Hour Report.⁹ On June 7, 2017, RAD referred the
11 Committee to OGC for failing to timely file the independent expenditure report.¹⁰

12 III. ANALYSIS

13 The Federal Election Campaign Act of 1971, as amended, requires committee
14 treasurers to file reports of disbursements in accordance with the provisions of 52 U.S.C.
15 § 30104(b).¹¹ This requirement includes reporting independent expenditures made by

⁴ Submission and Attachment.

⁵ *Id.*

⁶ *Id.*

⁷ See Committee 24/48 Report of Independent Expenditures (Nov. 30, 2016), available at <http://docquery.fec.gov/pdf/212/201611309037588212/201611309037588212.pdf>.

⁸ See Committee 2016 30 Day Post-General Report (Dec. 8, 2016) at 17, available at <http://docquery.fec.gov/pdf/992/201612089040050992/201612089040050992.pdf>.

⁹ See RR 17L-15 and Attachments.

¹⁰ *Id.* The Committee did not respond to the Referral.

¹¹ 52 U.S.C. § 30104(a)(1).

1 political committees other than authorized committees.¹² Every political committee that
2 makes independent expenditures must report them on its regularly scheduled disclosure
3 reports in accordance with 11 C.F.R. § 104.3(b)(3)(vii).¹³ In addition, political
4 committees that make independent expenditures aggregating \$1,000 or more with respect
5 to a given election after the 20th day, but more than 24 hours before the date of that
6 election, must disclose them within 24 hours following the date of dissemination.¹⁴
7 These reports, known as 24-Hour Reports, must be filed within 24 hours after each time
8 the committee makes or contracts to make independent expenditures aggregating an
9 additional \$1,000.¹⁵

10 In its Submission, the Committee admits that it failed to timely file an
11 independent expenditure 24-Hour Report concerning \$324,821 for media services in
12 October 2016. RAD referred the Committee for the same untimely reporting.
13 Accordingly, the Commission has determined to find reason to believe that Let America
14 Work and Benjamin Ottenhoff in his official capacity as treasurer violated 52 U.S.C.
15 § 30104(g)(1).

¹² 52 U.S.C. § 30104(b)(4)(H)(iii); *see also* 11 C.F.R. § 104.3(b)(1)(vii).

¹³ 11 C.F.R. § 104.4(a).

¹⁴ 52 U.S.C. § 30104(g)(1)(A); 11 C.F.R. § 104.4(c).

¹⁵ 52 U.S.C. § 30104(g)(1)(B); 11 C.F.R. § 104.4(c).